

AMENDED IN ASSEMBLY AUGUST 25, 2016

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 4, 2016

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE APRIL 14, 2016

AMENDED IN SENATE MARCH 28, 2016

## SENATE BILL

**No. 1336**

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**Introduced by Senator Jackson**

February 19, 2016

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An act to amend ~~Sections 358 and 361.3~~ *Section 358* of the Welfare and Institutions Code, relating to dependent children.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1336, as amended, Jackson. Dependent children: ~~placement with~~ *investigation*: relatives.

Existing law requires a county social worker to investigate the circumstances of each child taken into temporary custody by a peace officer who has reasonable cause to believe the child is the victim of abuse or neglect. Existing law requires the social worker to conduct an investigation to identify and locate adult relatives of the child and to provide him or her with a specified relative information form. Existing law further requires the social worker to initiate an assessment of the suitability of a relative who requests that the child be placed with him or her.

Under existing law, the juvenile court is required to hold a hearing to determine the proper disposition to be made of a child adjudged a

dependent of the juvenile court. Existing law requires the court to consider the social study of the child made by the social worker before the court arrives at its judgment. ~~Existing law requires that, subsequent to the hearing, consideration for placement again be given to relatives whenever a new placement of the child must be made. Existing case law generally provides that the relative placement preference applies throughout the reunification period, and that a social worker is required to make an assessment of a relative who requests to be considered for placement at any time during that period.~~

This bill would require the juvenile court to make a finding as to whether the social worker exercised due diligence in conducting his or her investigation to identify, locate, and notify the child's relatives. ~~The bill would require the county, whenever a relative identifies himself or herself to the county, to inform the court and all parties to the case that the relative has come forward and requested placement of the child.~~

~~This bill would incorporate changes to Section 361.3 of the Welfare and Institutions Code proposed by both this bill and AB 1997, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 358 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 358. (a) After finding that a child is a person described in
- 4 Section 300, the court shall hear evidence on the question of the
- 5 proper disposition to be made of the child. Prior to making a
- 6 finding required by this section, the court may continue the hearing
- 7 on its own motion, the motion of the parent or guardian, or the
- 8 motion of the child, as follows:
- 9 (1) If the child is detained during the continuance, and the social
- 10 worker is not alleging that subdivision (b) of Section 361.5 is
- 11 applicable, the continuance shall not exceed 10 judicial days. The
- 12 court may make an order for detention of the child or for the child's
- 13 release from detention, during the period of continuance, as is
- 14 appropriate.
- 15 (2) If the child is not detained during the continuance, the
- 16 continuance shall not exceed 30 days after the date of the finding

1 pursuant to Section 356. However, the court may, for cause,  
2 continue the hearing for an additional 15 days.

3 (3) If the social worker is alleging that subdivision (b) of Section  
4 361.5 is applicable, the court shall continue the proceedings for a  
5 period not to exceed 30 days. The social worker shall notify each  
6 parent of the content of subdivision (b) of Section 361.5 and shall  
7 inform each parent that if the court does not order reunification a  
8 permanency planning hearing will be held, and that his or her  
9 parental rights may be terminated within the timeframes specified  
10 by law.

11 (b) (1) Before determining the appropriate disposition, the court  
12 shall receive in evidence the social study of the child made by the  
13 social worker, any study or evaluation made by a child advocate  
14 appointed by the court, and other relevant and material evidence  
15 as may be offered, including, but not limited to, the willingness  
16 of the caregiver to provide legal permanency for the child if  
17 reunification is unsuccessful. In any judgment and order of  
18 disposition, the court shall specifically state that the social study  
19 made by the social worker and the study or evaluation made by  
20 the child advocate appointed by the court, if there be any, has been  
21 read and considered by the court in arriving at its judgment and  
22 order of disposition. Any social study or report submitted to the  
23 court by the social worker shall include the individual child's case  
24 plan developed pursuant to Section 16501.1.

25 (2) Whenever a child is removed from a parent's or guardian's  
26 custody, the court shall make a finding as to whether the social  
27 worker has exercised due diligence in conducting the investigation,  
28 as required pursuant to paragraph (1) of subdivision (e) of Section  
29 309, to identify, locate, and notify the child's relatives, including  
30 both maternal and paternal relatives.

31 (3) When making the determination required pursuant to  
32 paragraph (2), the court may consider, among other examples of  
33 due diligence, the extent to which the social worker has complied  
34 with paragraph (1) of subdivision (e) of Section 309, and has done  
35 any of the following:

36 (A) Asked the child, in an age-appropriate manner and consistent  
37 with the child's best interest, about his or her relatives.

38 (B) Obtained information regarding the location of the child's  
39 relatives.

1 (C) Reviewed the child's case file for any information regarding  
2 the child's relatives.

3 (D) Telephoned, emailed, or visited all identified relatives.

4 (E) Asked located relatives for the names and locations of other  
5 relatives.

6 (F) Used Internet search tools to locate relatives identified as  
7 supports.

8 (c) If the court finds that a child is described by subdivision (h)  
9 of Section 300 or that subdivision (b) of Section 361.5 may be  
10 applicable, the court shall conduct the dispositional proceeding  
11 pursuant to subdivision (c) of Section 361.5.

12 ~~SEC. 2. Section 361.3 of the Welfare and Institutions Code is~~  
13 ~~amended to read:~~

14 ~~361.3. (a) In any case in which a child is removed from the~~  
15 ~~physical custody of his or her parents pursuant to Section 361,~~  
16 ~~preferential consideration shall be given to a request by a relative~~  
17 ~~of the child for placement of the child with the relative, regardless~~  
18 ~~of the relative's immigration status. In determining whether~~  
19 ~~placement with a relative is appropriate, the county social worker~~  
20 ~~and court shall consider, but shall not be limited to, consideration~~  
21 ~~of all the following factors:~~

22 ~~(1) The best interest of the child, including special physical,~~  
23 ~~psychological, educational, medical, or emotional needs.~~

24 ~~(2) The wishes of the parent, the relative, and child, if~~  
25 ~~appropriate.~~

26 ~~(3) The provisions of Part 6 (commencing with Section 7950)~~  
27 ~~of Division 12 of the Family Code regarding relative placement.~~

28 ~~(4) Placement of siblings and half siblings in the same home,~~  
29 ~~unless that placement is found to be contrary to the safety and~~  
30 ~~well-being of any of the siblings, as provided in Section 16002.~~

31 ~~(5) The good moral character of the relative and any other adult~~  
32 ~~living in the home, including whether any individual residing in~~  
33 ~~the home has a prior history of violent criminal acts or has been~~  
34 ~~responsible for acts of child abuse or neglect.~~

35 ~~(6) The nature and duration of the relationship between the child~~  
36 ~~and the relative, and the relative's desire to care for, and to provide~~  
37 ~~legal permanency for, the child if reunification is unsuccessful.~~

38 ~~(7) The ability of the relative to do the following:~~

39 ~~(A) Provide a safe, secure, and stable environment for the child.~~

40 ~~(B) Exercise proper and effective care and control of the child.~~

1 ~~(C) Provide a home and the necessities of life for the child.~~

2 ~~(D) Protect the child from his or her parents.~~

3 ~~(E) Facilitate court-ordered reunification efforts with the parents.~~

4 ~~(F) Facilitate visitation with the child's other relatives.~~

5 ~~(G) Facilitate implementation of all elements of the case plan.~~

6 ~~(H) Provide legal permanence for the child if reunification fails.~~

7 However, any finding made with respect to the factor considered  
8 pursuant to this subparagraph and pursuant to subparagraph (G)  
9 shall not be the sole basis for precluding preferential placement  
10 with a relative.

11 ~~(I) Arrange for appropriate and safe child care, as necessary.~~

12 ~~(8) The safety of the relative's home. For a relative to be~~  
13 ~~considered appropriate to receive placement of a child under this~~  
14 ~~section, the relative's home shall first be approved pursuant to the~~  
15 ~~process and standards described in subdivision (d) of Section 309.~~

16 In this regard, the Legislature declares that a physical disability,  
17 such as blindness or deafness, is no bar to the raising of children,  
18 and a county social worker's determination as to the ability of a  
19 disabled relative to exercise care and control should center upon  
20 whether the relative's disability prevents him or her from exercising  
21 care and control. The court shall order the parent to disclose to the  
22 county social worker the names, residences, and any other known  
23 identifying information of any maternal or paternal relatives of  
24 the child. This inquiry shall not be construed, however, to guarantee  
25 that the child will be placed with any person so identified. The  
26 county social worker shall initially contact the relatives given  
27 preferential consideration for placement to determine if they desire  
28 the child to be placed with them. Those desiring placement shall  
29 be assessed according to the factors enumerated in this subdivision.  
30 The county social worker shall document these efforts in the social  
31 study prepared pursuant to Section 358.1. The court shall authorize  
32 the county social worker, while assessing these relatives for the  
33 possibility of placement, to disclose to the relative, as appropriate,  
34 the fact that the child is in custody, the alleged reasons for the  
35 custody, and the projected likely date for the child's return home  
36 or placement for adoption or legal guardianship. However, this  
37 investigation shall not be construed as good cause for continuance  
38 of the dispositional hearing conducted pursuant to Section 358.

39 ~~(b) In any case in which more than one appropriate relative~~  
40 ~~requests preferential consideration pursuant to this section, each~~

1 ~~relative shall be considered under the factors enumerated in~~  
2 ~~subdivision (a). Consistent with the legislative intent for children~~  
3 ~~to be placed immediately with a responsible relative, this section~~  
4 ~~does not limit the county social worker's ability to place a child~~  
5 ~~in the home of an appropriate relative or a nonrelative extended~~  
6 ~~family member pending the consideration of other relatives who~~  
7 ~~have requested preferential consideration.~~

8 ~~(c) For purposes of this section:~~

9 ~~(1) "Preferential consideration" means that the relative seeking~~  
10 ~~placement shall be the first placement to be considered and~~  
11 ~~investigated.~~

12 ~~(2) "Relative" means an adult who is related to the child by~~  
13 ~~blood, adoption, or affinity within the fifth degree of kinship,~~  
14 ~~including stepparents, stepsiblings, and all relatives whose status~~  
15 ~~is preceded by the words "great," "great-great," or "grand," or the~~  
16 ~~spouse of any of these persons even if the marriage was terminated~~  
17 ~~by death or dissolution. However, only the following relatives~~  
18 ~~shall be given preferential consideration for the placement of the~~  
19 ~~child: an adult who is a grandparent, aunt, uncle, or sibling.~~

20 ~~(d) Subsequent to the hearing conducted pursuant to Section~~  
21 ~~358, whenever a new placement of the child must be made,~~  
22 ~~consideration for placement shall again be given as described in~~  
23 ~~this section to relatives who have not been found to be unsuitable~~  
24 ~~and who will fulfill the child's reunification or permanent plan~~  
25 ~~requirements. In addition to the factors described in subdivision~~  
26 ~~(a), the county social worker shall consider whether the relative~~  
27 ~~has established and maintained a relationship with the child.~~

28 ~~(e) Whenever a relative identifies himself or herself to the~~  
29 ~~county, the county, shall inform the court and all parties to the~~  
30 ~~case that the relative has come forward and requested placement~~  
31 ~~of the child.~~

32 ~~(f) If the court does not place the child with a relative who has~~  
33 ~~been considered for placement pursuant to this section, the court~~  
34 ~~shall state for the record the reasons placement with that relative~~  
35 ~~was denied.~~

36 ~~(g) (1) With respect to a child who satisfies the criteria set forth~~  
37 ~~in paragraph (2), the department and any licensed adoption agency~~  
38 ~~may search for a relative and furnish identifying information~~  
39 ~~relating to the child to that relative if it is believed the child's~~  
40 ~~welfare will be promoted thereby.~~

1     ~~(2) Paragraph (1) shall apply if both of the following conditions~~  
2     ~~are satisfied:~~

3     ~~(A) The child was previously a dependent of the court.~~

4     ~~(B) The child was previously adopted and the adoption has been~~  
5     ~~disrupted, set aside pursuant to Section 9100 or 9102 of the Family~~  
6     ~~Code, or the child has been released into the custody of the~~  
7     ~~department or a licensed adoption agency by the adoptive parent~~  
8     ~~or parents.~~

9     ~~(3) As used in this subdivision, “relative” includes a member~~  
10    ~~of the child’s birth family and nonrelated extended family~~  
11    ~~members, regardless of whether the parental rights were terminated,~~  
12    ~~provided that both of the following are true:~~

13    ~~(A) No appropriate potential caretaker is known to exist from~~  
14    ~~the child’s adoptive family, including nonrelated extended family~~  
15    ~~members of the adoptive family.~~

16    ~~(B) The child was not the subject of a voluntary relinquishment~~  
17    ~~by the birth parents pursuant to Section 8700 of the Family Code~~  
18    ~~or Section 1255.7 of the Health and Safety Code.~~

19    ~~SEC. 2.5. Section 361.3 of the Welfare and Institutions Code~~  
20    ~~is amended to read:~~

21    ~~361.3. (a) In any case in which a child is removed from the~~  
22    ~~physical custody of his or her parents pursuant to Section 361,~~  
23    ~~preferential consideration shall be given to a request by a relative~~  
24    ~~of the child for placement of the child with the relative, regardless~~  
25    ~~of the relative’s immigration status. In determining whether~~  
26    ~~placement with a relative is appropriate, the county social worker~~  
27    ~~and court shall consider, but shall not be limited to, consideration~~  
28    ~~of all the following factors:~~

29    ~~(1) The best interest of the child, including special physical,~~  
30    ~~psychological, educational, medical, or emotional needs.~~

31    ~~(2) The wishes of the parent, the relative, and child, if~~  
32    ~~appropriate.~~

33    ~~(3) The provisions of Part 6 (commencing with Section 7950)~~  
34    ~~of Division 12 of the Family Code regarding relative placement.~~

35    ~~(4) Placement of siblings and half siblings in the same home,~~  
36    ~~unless that placement is found to be contrary to the safety and~~  
37    ~~well-being of any of the siblings, as provided in Section 16002.~~

38    ~~(5) The good moral character of the relative and any other adult~~  
39    ~~living in the home, including whether any individual residing in~~

1 the home has a prior history of violent criminal acts or has been  
2 responsible for acts of child abuse or neglect.

3 ~~(6) The nature and duration of the relationship between the child~~  
4 ~~and the relative, and the relative's desire to care for, and to provide~~  
5 ~~legal permanency for, the child if reunification is unsuccessful.~~

6 ~~(7) The ability of the relative to do the following:~~

7 ~~(A) Provide a safe, secure, and stable environment for the child.~~

8 ~~(B) Exercise proper and effective care and control of the child.~~

9 ~~(C) Provide a home and the necessities of life for the child.~~

10 ~~(D) Protect the child from his or her parents.~~

11 ~~(E) Facilitate court-ordered reunification efforts with the parents.~~

12 ~~(F) Facilitate visitation with the child's other relatives.~~

13 ~~(G) Facilitate implementation of all elements of the case plan.~~

14 ~~(H) (i) Provide legal permanence for the child if reunification~~  
15 ~~fails.~~

16 ~~(ii) However, any finding made with respect to the factor~~  
17 ~~considered pursuant to this subparagraph and pursuant to~~  
18 ~~subparagraph (G) shall not be the sole basis for precluding~~  
19 ~~preferential placement with a relative.~~

20 ~~(I) Arrange for appropriate and safe child care, as necessary.~~

21 ~~(8) (A) The safety of the relative's home. For a relative to be~~  
22 ~~considered appropriate to receive placement of a child under this~~  
23 ~~section on an emergency basis, the relative's home shall first be~~  
24 ~~assessed pursuant to the process and standards described in~~  
25 ~~subdivision (d) of Section 309.~~

26 ~~(B) In this regard, the Legislature declares that a physical~~  
27 ~~disability, such as blindness or deafness, is no bar to the raising~~  
28 ~~of children, and a county social worker's determination as to the~~  
29 ~~ability of a disabled relative to exercise care and control should~~  
30 ~~center upon whether the relative's disability prevents him or her~~  
31 ~~from exercising care and control. The court shall order the parent~~  
32 ~~to disclose to the county social worker the names, residences, and~~  
33 ~~any other known identifying information of any maternal or~~  
34 ~~paternal relatives of the child. This inquiry shall not be construed,~~  
35 ~~however, to guarantee that the child will be placed with any person~~  
36 ~~so identified. The county social worker shall initially contact the~~  
37 ~~relatives given preferential consideration for placement to~~  
38 ~~determine if they desire the child to be placed with them. Those~~  
39 ~~desiring placement shall be assessed according to the factors~~  
40 ~~enumerated in this subdivision. The county social worker shall~~



1 document these efforts in the social study prepared pursuant to  
2 Section 358.1. The court shall authorize the county social worker,  
3 while assessing these relatives for the possibility of placement, to  
4 disclose to the relative, as appropriate, the fact that the child is in  
5 custody, the alleged reasons for the custody, and the projected  
6 likely date for the child's return home or placement for adoption  
7 or legal guardianship. However, this investigation shall not be  
8 construed as good cause for continuance of the dispositional  
9 hearing conducted pursuant to Section 358.

10 (b) In any case in which more than one appropriate relative  
11 requests preferential consideration pursuant to this section, each  
12 relative shall be considered under the factors enumerated in  
13 subdivision (a). Consistent with the legislative intent for children  
14 to be placed immediately with a responsible relative, this section  
15 does not limit the county social worker's ability to place a child  
16 in the home of an appropriate relative or a nonrelative extended  
17 family member pending the consideration of other relatives who  
18 have requested preferential consideration.

19 (c) For purposes of this section:

20 (1) "Preferential consideration" means that the relative seeking  
21 placement shall be the first placement to be considered and  
22 investigated.

23 (2) "Relative" means an adult who is related to the child by  
24 blood, adoption, or affinity within the fifth degree of kinship,  
25 including stepparents, stepsiblings, and all relatives whose status  
26 is preceded by the words "great," "great-great," or "grand," or the  
27 spouse of any of these persons even if the marriage was terminated  
28 by death or dissolution. However, only the following relatives  
29 shall be given preferential consideration for the placement of the  
30 child: an adult who is a grandparent, aunt, uncle, or sibling.

31 (d) Subsequent to the hearing conducted pursuant to Section  
32 358, whenever a new placement of the child must be made,  
33 consideration for placement shall again be given as described in  
34 this section to relatives who have not been found to be unsuitable  
35 and who will fulfill the child's reunification or permanent plan  
36 requirements. In addition to the factors described in subdivision  
37 (a), the county social worker shall consider whether the relative  
38 has established and maintained a relationship with the child.

39 (e) Whenever a relative identifies himself or herself to the  
40 county, the county shall inform the court and all parties to the case

1 that the relative has come forward and requested placement of the  
2 child.

3 (f) If the court does not place the child with a relative who has  
4 been considered for placement pursuant to this section, the court  
5 shall state for the record the reasons placement with that relative  
6 was denied.

7 (g) (1) With respect to a child who satisfies the criteria set forth  
8 in paragraph (2), the department and any licensed adoption agency  
9 may search for a relative and furnish identifying information  
10 relating to the child to that relative if it is believed the child's  
11 welfare will be promoted thereby.

12 (2) Paragraph (1) shall apply if both of the following conditions  
13 are satisfied:

14 (A) The child was previously a dependent of the court.

15 (B) The child was previously adopted and the adoption has been  
16 disrupted, set aside pursuant to Section 9100 or 9102 of the Family  
17 Code, or the child has been released into the custody of the  
18 department or a licensed adoption agency by the adoptive parent  
19 or parents.

20 (3) As used in this subdivision, "relative" includes a member  
21 of the child's birth family and nonrelated extended family  
22 members, regardless of whether the parental rights were terminated,  
23 provided that both of the following are true:

24 (A) No appropriate potential caretaker is known to exist from  
25 the child's adoptive family, including nonrelated extended family  
26 members of the adoptive family.

27 (B) The child was not the subject of a voluntary relinquishment  
28 by the birth parents pursuant to Section 8700 of the Family Code  
29 or Section 1255.7 of the Health and Safety Code.

30 SEC. 3. Section 2.5 of this bill incorporates amendments to  
31 Section 361.3 of the Welfare and Institutions Code proposed by  
32 both this bill and Assembly Bill 1997. It shall only become  
33 operative if (1) both bills are enacted and become effective on or  
34 before January 1, 2017, (2) each bill amends Section 361.3 of the  
35 Welfare and Institutions Code, and (3) this bill is enacted after  
36 Assembly Bill 1997, in which case Section 2 of this bill shall not  
37 become operative.